

EXHIBIT B

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September 1, 2005

BY FACSIMILE AND FEDERAL EXPRESS

David C. Doyle, Esq.
Morrison Foerster LLP
3811 Valley Centre Drive
Suite 500
San Diego, CA 92130-2332

Re: Abbott Diabetes Care, Inc. v. DexCom, Inc.

Dear David:

I write regarding the portion of DexCom's motion seeking to dismiss Abbott Diabetes Care's declaratory judgment claim on jurisdictional grounds under Rule 12(b)(1). Your motion attaches multiple documents, makes many factual allegations, and relies on a witness' testimony in the form of an affidavit. In doing so, you have raised factual issues concerning the Court's jurisdiction. Abbott requires discovery on those issues. *See, e.g., Canavan v. Beneficial Finance Corp.*, 553 F.2d 860, 865 (3d Cir. 1977) (reversing dismissal on jurisdictional grounds based on a refusal to allow discovery because, "[o]rdinarily, when a defendant moves to dismiss for lack of jurisdiction, either party should be allowed discovery on the factual issues raised by that motion."); *Valentin v. Hospital Bella Vista*, 254 F.3d 358, 364 (1st Cir. 2001) (noting that when a party files a Rule 12(b)(1) motion, courts have "broad authority to order discovery, consider extrinsic evidence, and hold evidentiary hearings in order to determine its own jurisdiction").

Specifically, we would like discovery on the issues your Rule 12(b)(1) motion places into dispute, including documents relating to:

- (1) DexCom's internal assessments on the likelihood that it will get FDA approval (See allegations on pages 9 and 12 of your brief);
- (2) DexCom's internal estimates about the projected date of approval of its product and any plans and preparations for making, marketing, and/or selling its product within that projected time schedule (See allegations on pages 8 and 12 of your brief);

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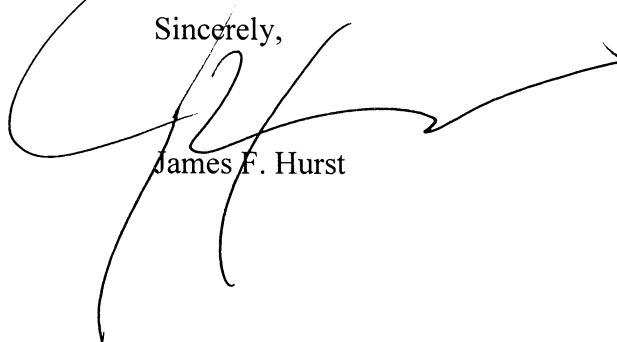
(3) DexCom's communications with the FDA since July 1, 2005, including any response, assessment, and/or internal analysis of that communication (See allegations on page 8 of your brief);

(4) DexCom's internal assessments on the likelihood that, under any circumstances, it will alter its product before getting FDA approval and, if so, in what manner (See allegations on pages 8 and 12);

After completion of your document production, we would like to depose a Rule 30(b)(6) witness on the same four topics as well as your affiant, Mr. Andrew Balo. We have just begun to review your papers and, thus, may conclude that we need additional documents and/or depositions. But, at least for now, we expect that this may be sufficient.

Our requested discovery will require an adjustment to the briefing schedule on your motion to dismiss. An appropriate schedule depends, of course, on how quickly DexCom can provide the requested discovery. I will call you tomorrow to discuss these matters. We particularly would like to know, tomorrow if possible, if DexCom intends to oppose either our requested discovery and/or adjusting the briefing schedule to complete that discovery.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to be 'JF Hurst', is written over the typed name. The signature is fluid and extends across the line of the name.

James F. Hurst

JFH/sue